

# Workers Compensation and Personal Injury: The Good, the Bad and the Ugly

Marc Gerber, MD

FSPMR Conference  
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# Workers Compensation and Personal Injury: The Good, the Bad and the Ugly

- Nothing to disclose

# Laws of the Pain Palace (cont.)

- The first Law of Painodynamics: Pain cannot be created or destroyed, it can only be converted from one form or patient to another.

Individual Patient Example: If you completely relieve a patient's pain, they will develop a completely new pain within three months.

Pain Practice Example: If a patient comes into the office completely relieved of pain, another patient will call in pain crisis during the same half day.

# Laws of the Pain Palace

- A good block cannot cure a bad patient.
- Just because a patient is psychotic doesn't mean they don't have physical pain.  
Corollary: Just because a patient has physical pain doesn't mean they aren't psychotic.
- What you said ain't what they heard (ever).
- If an abnormality is ever found on MRI, the patient's pain will migrate to the dermatome of that abnormality within 6 weeks (6 days for nurses).

Show by marking the drawing of tile back and front of the figures below  
where you are having most of your:

Aching or pain - XXXXXXXX

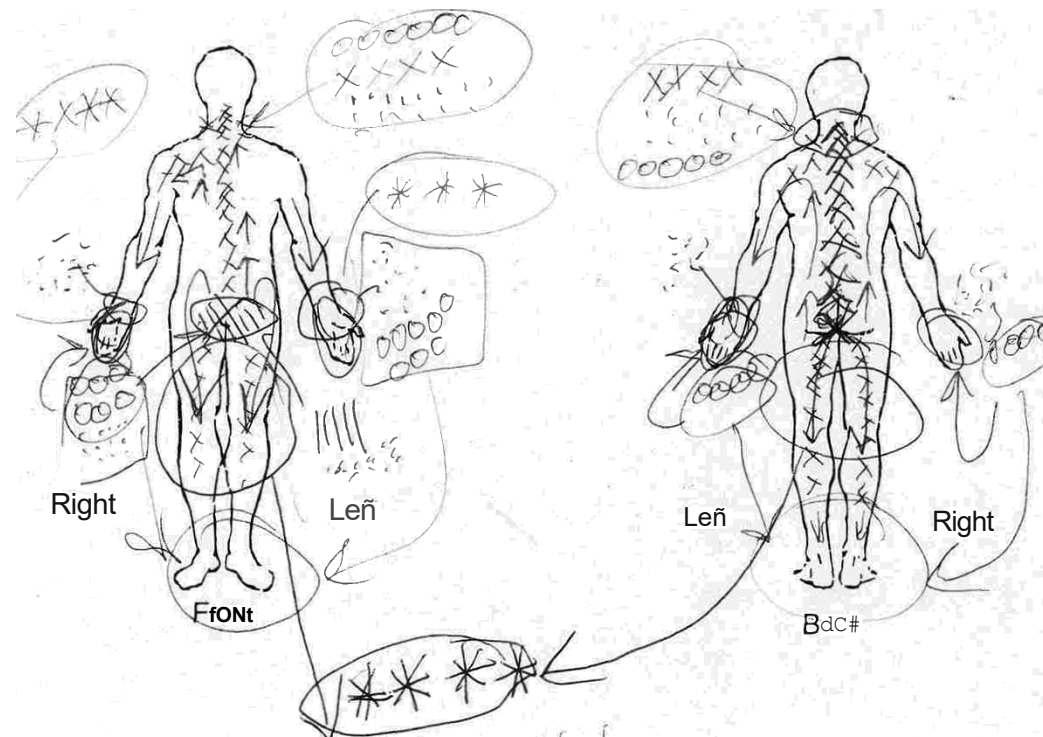
Pins and needles - .....

Burning - / / / / / / / /

Numbness and tingling —0000000

Cramping - \* \* \* \* \*

Draw arrows showing where the pain goes or shoots to



Patient Name:

[Redacted Patient Name]

Date:

3.18.24

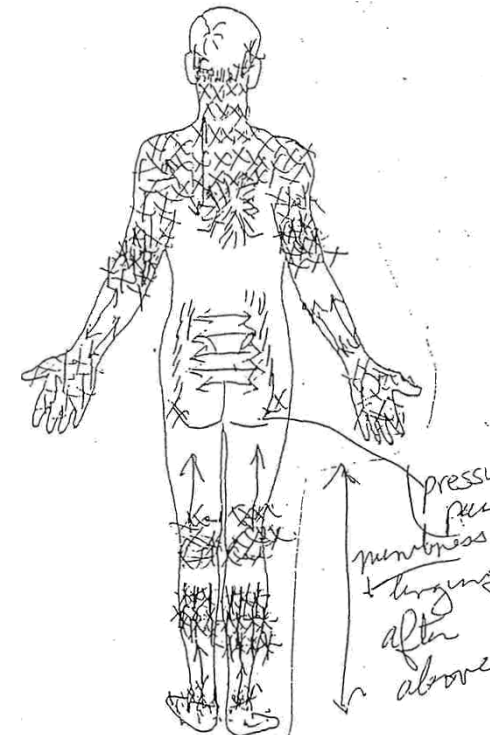
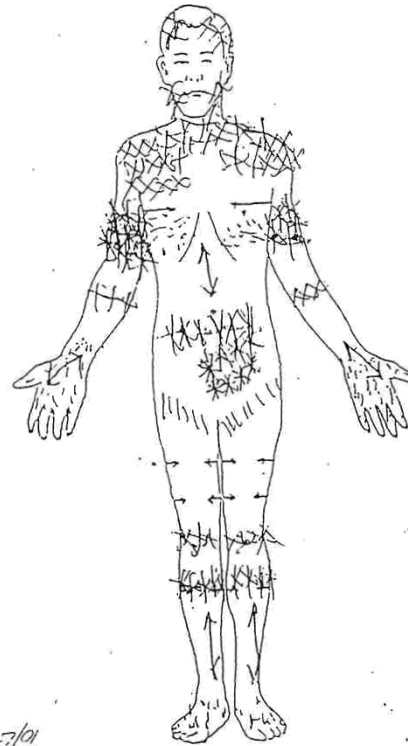
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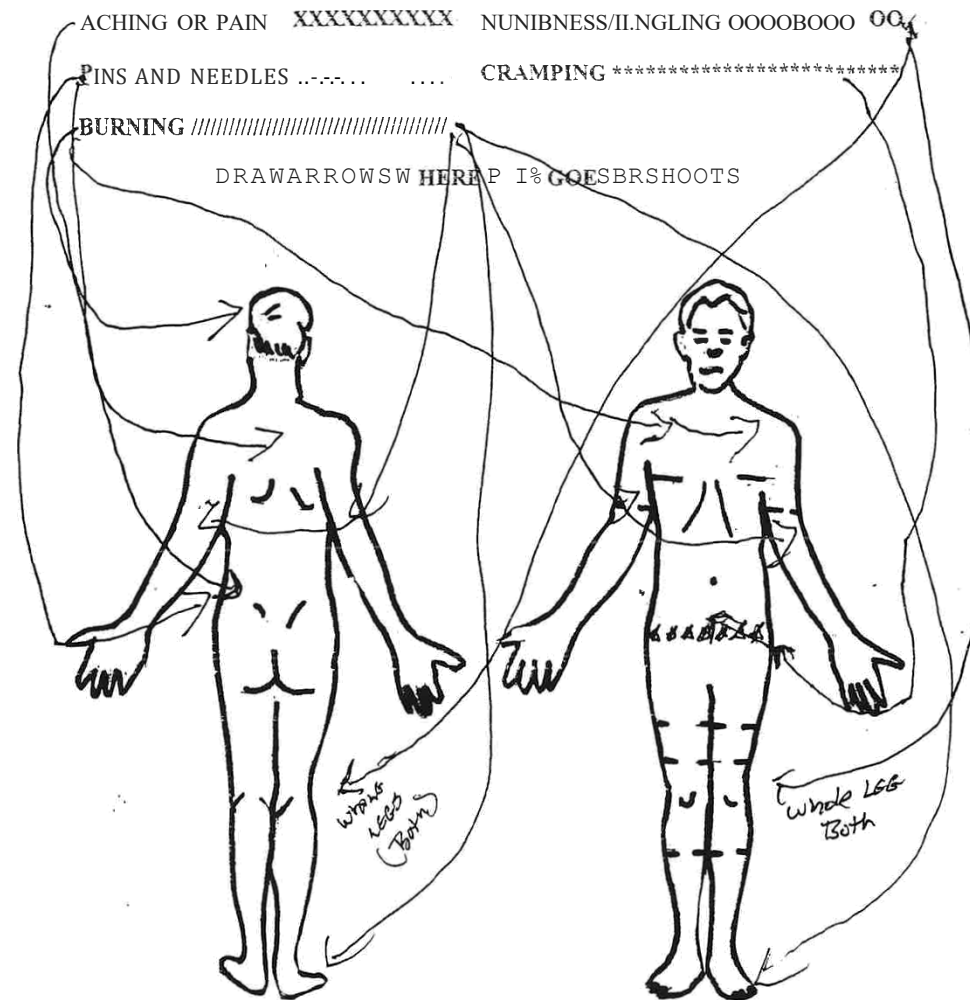
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Tel: (307) 381-1111

IF ICHAEIJ. BROOtl, It.D.  
MARC R. GERBER, N.D.  
phticultz,ing in Surgical 1 Plan Surgical Spine Cure  
25 YVest Kaley it., Suite 300  
Orlando, FL 32806

SHOW' Bâ' NLXRKING THE DILX4YING OF THE BACK .AND FRONT OF THE  
FIGLRES BELOW WHERE Y'OU ARE HAVING MOST OF YOUR:



# The Key Players

## Work Comp

- Adjuster directs the care and chooses the doctor and other providers
- Nurse case managers - when involved they are very important
- Attorneys – not always involved
- You have 30 days to report an injury

## Personal Injury

- Medical Providers may initially be a chiropractor, or physician
- Attorneys – usually but not always involved
- In auto – patients have 14 days to seek medical care



# In Workers Comp: (No Jury)

- Pain or other subjective complaints alone, in the absence of other objective relevant medical findings, are not compensable.
- Cases may be heard in front of an administrative law judge.

# In Personal Injury (may have a jury trial)

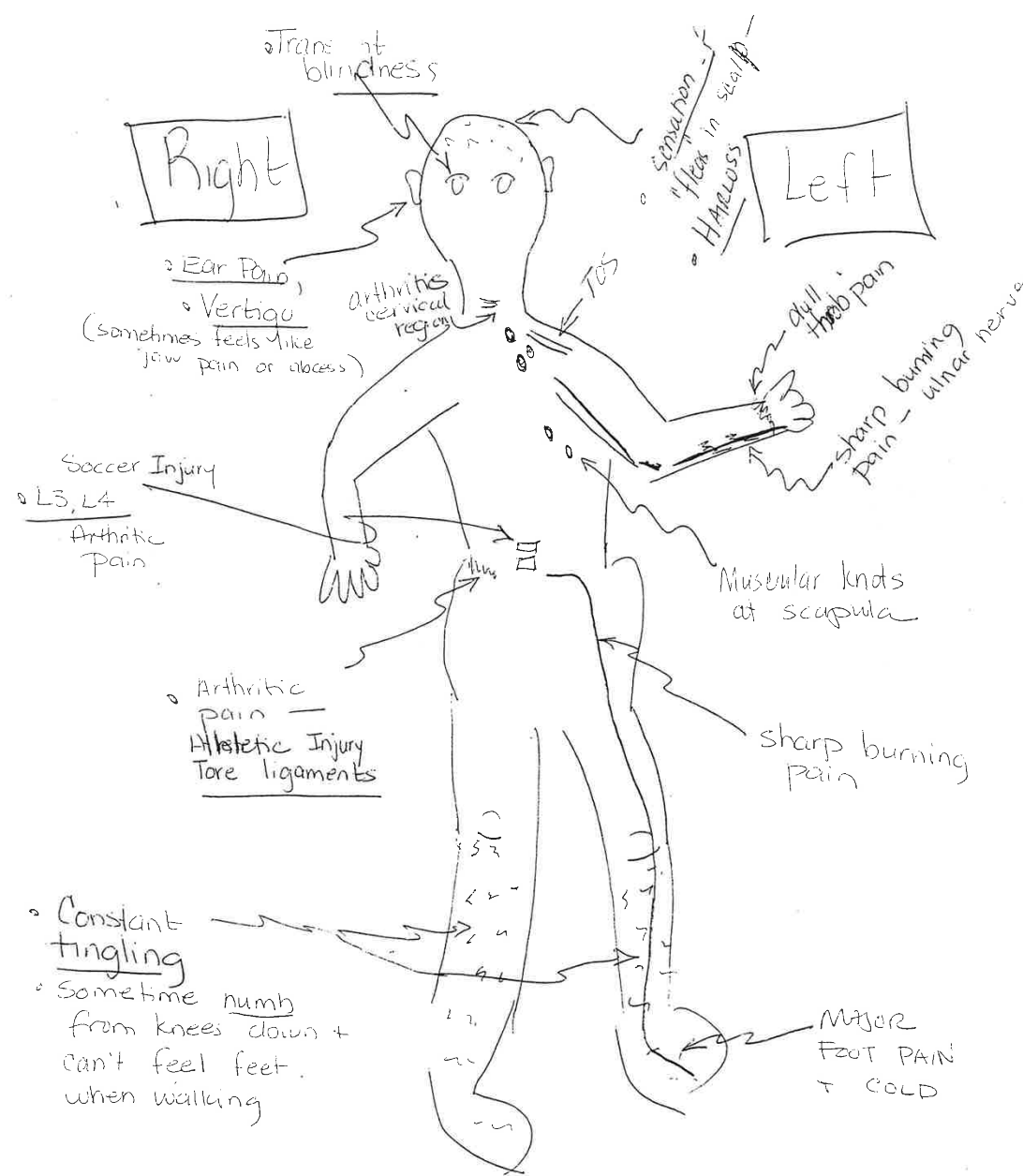
- Pain and suffering, whether physical or emotional, are damages that can be awarded. These are not easily quantifiable and vary greatly.

# Major Contributing Cause -MCC (Statute 440.09)

- The cause which is more than 50% responsible for the injury as compared to all other causes combined for which treatment or benefits are sought.

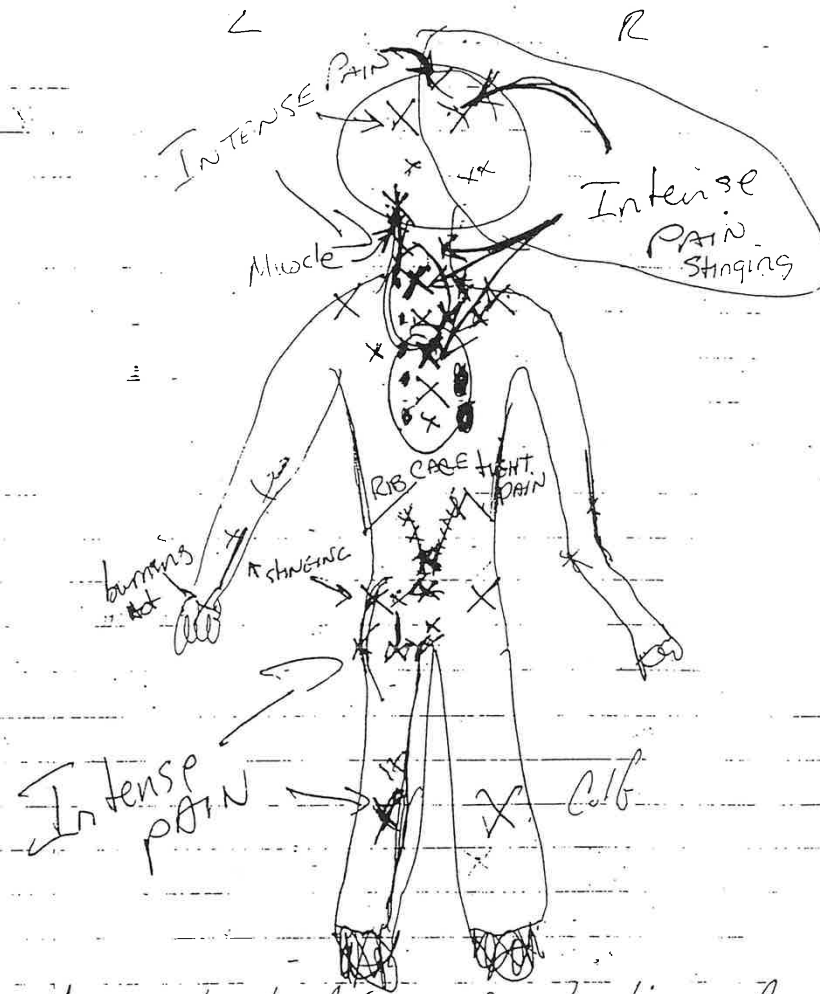
# Permanent Partial Impairment (Statute 440.02)

- Used to assess the extent of a worker's permanent impairment resulting from a workplace injury or illness.
- Any anatomic or functional abnormality or loss determined as a percentage of the body as a whole, existing after the date of maximum medical improvement, which results from the injury.

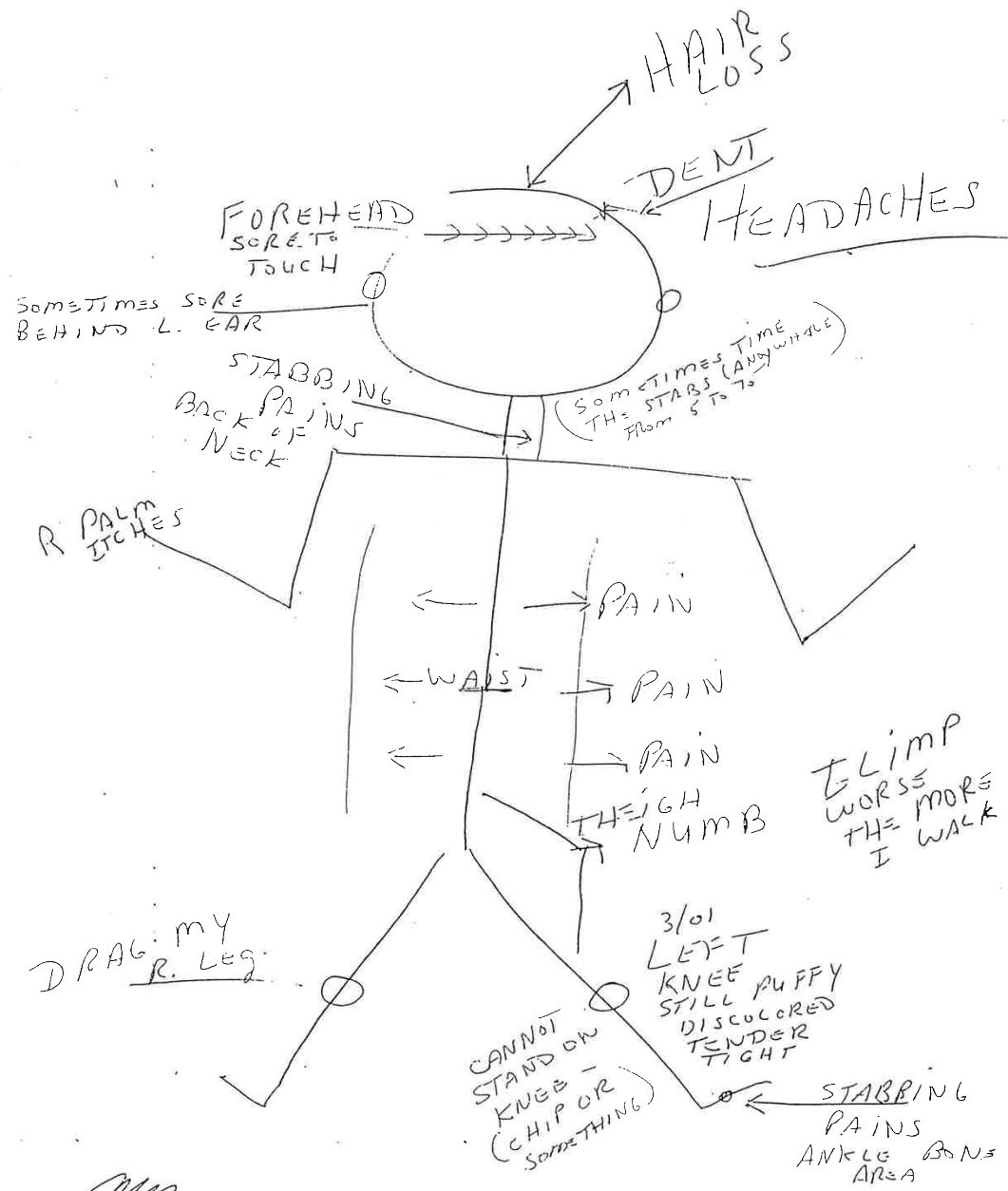


- \* Transient joint pain
- \* Varying degrees of muscular pain

12/00



leg vibrating pain traveling along leg from hip



MM -  
rendering 3/28/01

# Maximum Medical Improvement – MMI (Statute 440.02)

- The date after which further recovery from, or lasting improvement to an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.



# According to the AMA Impairment Guides, 6<sup>th</sup> Edition

- Aggravation: Permanent worsening of a pre-existing condition. A physical, chemical, biological or other factor which results in an increase of symptoms, signs, and/or impairment that never returns to baseline, or what would have been except for the aggravation (the level predetermined by the natural history of the antecedent injury or illness).
- Whereas an Exacerbation: Temporary worsening of a pre-existing condition. Following a transient increase in symptoms, signs, disability, and/or impairment, the person recovers to his or her baseline status, or what would have been had the exacerbation never occurred.

# Independent Medical Exam (IME) Statute 440.13

- A physician selected by either an employee or carrier to render one or more independent medical examinations in connection with a dispute arising under this chapter.
- An objective evaluation of an injured employee's medical condition. Generally performed by a physician not involved in the patient's care.
- No doctor-patient relationship exists
- These can be done in both personal injury and work comp cases.

# Personal Injury

## Advantages

- Can be very lucrative if you have good referral sources
- Generally, get paid better per visit than traditional insurance as you can set the fees within reason

## Disadvantages

- May have delayed reimbursement if insurance benefits have been exhausted
- Need to work closely with attorneys that often expect opinions that favor their clients; The attorneys are often your referral sources
- May be scrutinized or audited by insurance companies if you engage in overutilization of procedures or overtreatment, excessive billing charges, etc.

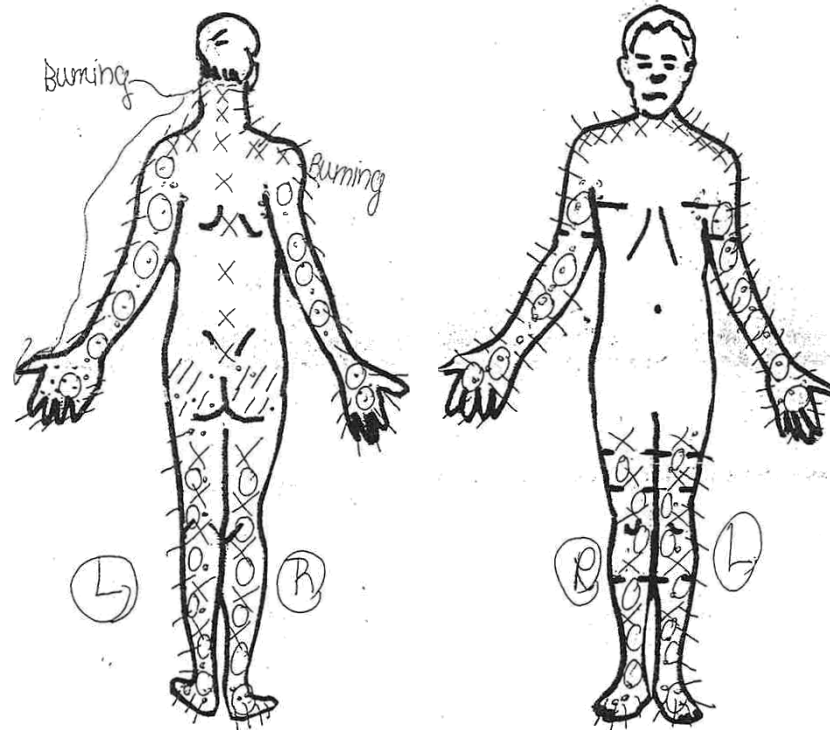
SHOW BY MARKING THE DRAWING OF THE BACK AND FRONT OF THE  
FIGURES BELOW WHERE YOU ARE HAVING MOST OF YOUR:

ACHING OR PAIN            U   V   X   NUMBNESS/TINGLING   OOOOOOOOOO

PINS AND NEEDLES .....   CRAMPING \*\*\*\*\*

**BURNING** //////////////////////////////////

DRAW ARROWS WHERE PAIN GOES OR SHOOTS



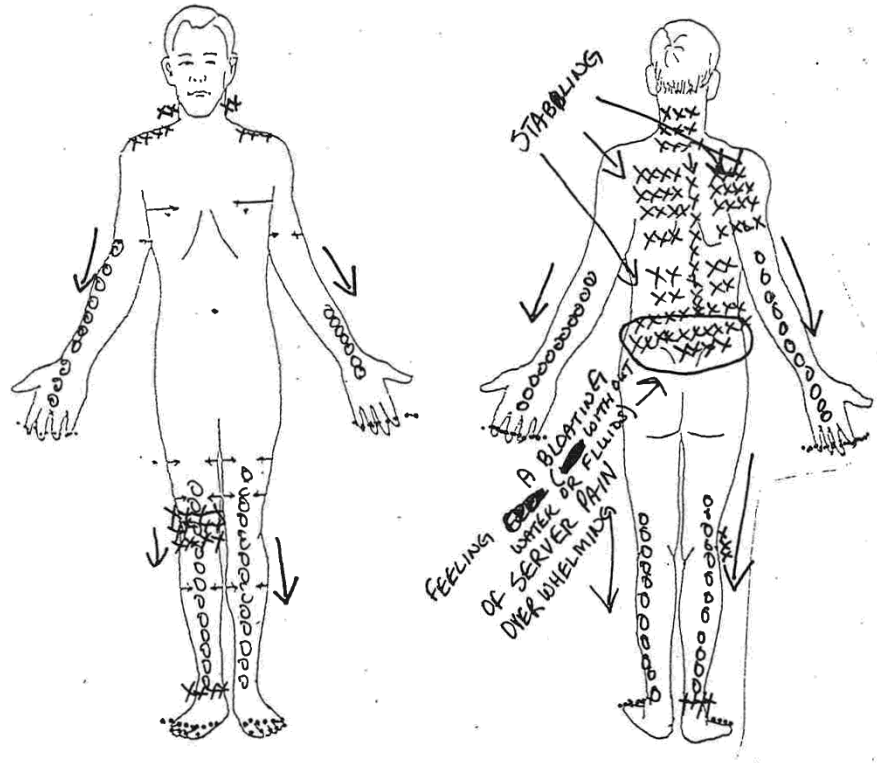
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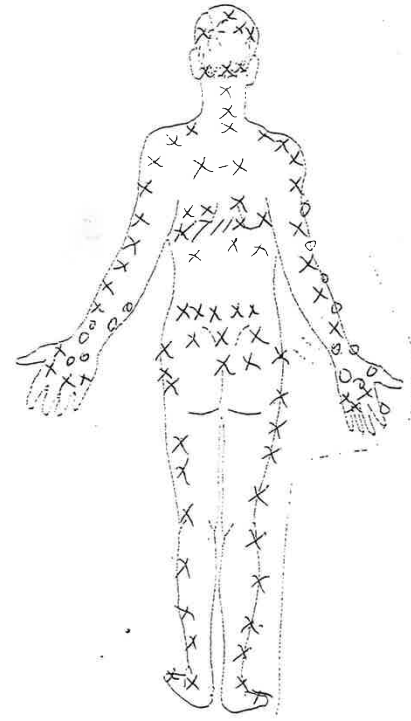
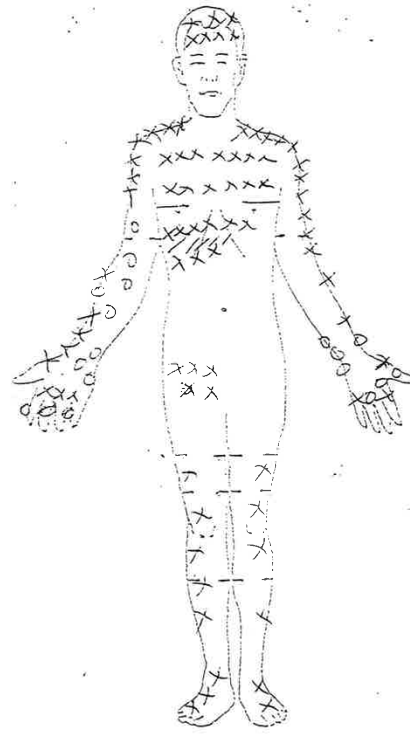


4/2/02

SHOW BY MARKING THE DRAWING ON THE BACK AND FRONT OF THE FIGURES  
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PINS AND NEEDLES ..... CRAMPING \*\*\*\*\*  
BURNING //////////////////////////////////

DRAW ARROWS WHERE PAIN GOES OR SHOOTS



# Both Personal Injury and Work Comp

- If you are a fair and competent physician and give opinions based on objective findings you will do well.
- Plaintiff and Defense attorneys usually want the truth. You will have to walk a fine line between good and evil but ultimately you need to give an opinion. Sometimes it will help your referral source and sometimes not, but if you base it on fact they will respect you. There are doctors that lose credibility because they say whatever benefits the referral source.

# Benefits of Treating Work Comp

- Can negotiate outside of the fee schedule
- Physician dispensing is available
- Steady flow of new patients
- Work comp is its own “island” separate from medicare and other insurance carriers
- If you take the time to learn the system and do it right, it can become a large part of your practice.



# Disadvantages of Treating Work Comp

- May be more paperwork than other insurances (you can bill for your time in filling out forms)
- If you are indecisive or don't like being put on the spot, it will be stressful (Conferences and depositions are routine)
- You have to give opinions and stick to them
- You need to be a team player and talk to others when needed. (i.e. adjusters, nurse case managers, attorneys, PT/OT, psychiatrists and other physicians)

# DWC 25

Florida Workers' Compensation Uniform Medical Treatment/Status Reporting Form - PAGE 1		
BEFORE COMPLETING THIS FORM, PLEASE CAREFULLY REVIEW THE INSTRUCTIONS BEGINNING ON PAGE 3		
NOTE: Health care providers shall legibly and accurately complete all sections of this form, limiting their responses to their area of expertise.		
1. Insurer Name:	2. Visit/Review Date:	5. FOR INSURER USE ONLY
3. Injured Employee (Patient) Name:	4. Date of Birth:	
6. Date of Accident:	7. Employer Name	8. Initial visit with this physician? <input type="checkbox"/> a) NO <input type="checkbox"/> b) YES
<b>SECTION I CLINICAL ASSESSMENT / DETERMINATIONS</b>		
9. <input type="checkbox"/> No change in Items 9 - 13d since last reported visit. If checked, GO TO SECTION II.		
10. Injury/Illness for which treatment is sought is: <input type="checkbox"/> a) NOT WORK RELATED <input type="checkbox"/> b) WORK RELATED <input type="checkbox"/> c) UNDETERMINED as of this date		
11. Has the patient been determined to have Objective Relevant Medical Findings? Pain or abnormal anatomical findings, in the absence of objective relevant medical findings, shall not be an indicator of injury and/or illness and are not compensable. <input type="checkbox"/> a) NO <input type="checkbox"/> b) YES <input type="checkbox"/> c) UNDETERMINED as of this date If YES or UNDETERMINED, explain: _____		
12. Diagnosis(es): _____		
13. Major Contributing Cause: When there is more than one contributing cause, the reported work-related injury must contribute more than 50% to the present condition and be based on the findings in Item 11. a) Is there a pre-existing condition contributing to the current medical disorder? <input type="checkbox"/> a <sub>1</sub> ) NO <input type="checkbox"/> a <sub>2</sub> ) YES <input type="checkbox"/> a <sub>3</sub> ) UNDETERMINED as of this date b) Do the objective relevant medical findings identified in Item 11 represent an exacerbation (temporary worsening) or aggravation (progression) of a pre-existing condition? <input type="checkbox"/> b <sub>1</sub> ) NO <input type="checkbox"/> b <sub>2</sub> ) exacerbation <input type="checkbox"/> b <sub>3</sub> ) aggravation <input type="checkbox"/> b <sub>4</sub> ) UNDETERMINED as of this date c) Are there other relevant co-morbidities that will need to be considered in evaluating or managing this patient? <input type="checkbox"/> c <sub>1</sub> ) NO <input type="checkbox"/> c <sub>2</sub> ) YES d) Given your responses to the items above, is the injury/illness in question the major contributing cause for: <input type="checkbox"/> d <sub>1</sub> ) NO <input type="checkbox"/> d <sub>2</sub> ) YES the reported medical condition? <input type="checkbox"/> d <sub>3</sub> ) NO <input type="checkbox"/> d <sub>4</sub> ) YES the treatment recommended (management/treatment plan)? <input type="checkbox"/> d <sub>5</sub> ) NO <input type="checkbox"/> d <sub>6</sub> ) YES the functional limitations and restrictions determined?		
<b>SECTION II PATIENT CLASSIFICATION LEVEL</b>		
<input type="checkbox"/> 14. LEVEL I - Key issue: specific, well-defined medical condition, with clear correlation between objective relevant physical findings and patients' subjective complaints. Treatment correlates to the specific findings.		
<input type="checkbox"/> 15. LEVEL II - Key issue: regional or generalized deconditioning (i.e. deficits in strength, flexibility, endurance, and motor control. Treatment: physical reconditioning and functional restoration.		
<input type="checkbox"/> 16. LEVEL III - Key issue: poor correlation between patient's complaints and objective, relevant physical findings, indicating both somatic and non-somatic clinical factors. Treatment: interdisciplinary rehabilitation and management.		
<input type="checkbox"/> 17. LEVEL UNDETERMINED AS OF THIS DATE		
<b>SECTION III MANAGEMENT / TREATMENT PLAN</b>		
<input type="checkbox"/> 18. No clinical services indicated at this time. If checked, GO TO SECTION IV		
<input type="checkbox"/> 19. No change in Items 20a - 20g since last report submitted. If checked, GO TO SECTION IV		
20. The following proposed, subsequent clinical service(s) is/are deemed medically necessary. *** THIS IS A PROVIDER'S WRITTEN REQUEST FOR INSURER AUTHORIZATION OF TREATMENT OR SERVICES. *** <input type="checkbox"/> a) Consultation with or referral to a specialist. Identify principal physician: Identify specialty & provide rationale: _____ <input type="checkbox"/> a <sub>1</sub> ) CONSULT ONLY <input type="checkbox"/> a <sub>2</sub> ) REFERRAL & CO-MANAGE <input type="checkbox"/> a <sub>3</sub> ) TRANSFER CARE <input type="checkbox"/> b) Diagnostic Testing: (Specify) _____ <input type="checkbox"/> c) Physical Medicine. Check appropriate box and indicate specificity of services, frequency and duration below: <input type="checkbox"/> c <sub>1</sub> ) Physical/Occupational therapy, Chiropractic, Osteopathic or comparable physical rehabilitation. <input type="checkbox"/> c <sub>2</sub> ) Physical Reconditioning (Level II Patient Classification) <input type="checkbox"/> c <sub>3</sub> ) Interdisciplinary Rehabilitation Program (Level III Patient Classification) Specific instruction(s): _____ <input type="checkbox"/> d) Pharmaceutical(s) (specify): _____ <input type="checkbox"/> e) DME or Medical Supplies: _____ <input type="checkbox"/> f) Surgical Intervention - specify procedure(s): <input type="checkbox"/> f <sub>1</sub> ) In-Office: _____ <input type="checkbox"/> f <sub>2</sub> ) Surgical Facility: _____ <input type="checkbox"/> f <sub>3</sub> ) Injectable(s) (e.g. pain management): _____ <input type="checkbox"/> g) Attendant Care: _____		

# DWC 25

Florida Workers' Compensation Uniform Medical Treatment/Status Reporting Form - PAGE 2			
Patient Name:		DIA:	
Visit/Review Date:			
<b>SECTION IV FUNCTIONAL LIMITATIONS AND RESTRICTIONS</b>			
Assignment of limitations or restrictions must be based upon the injured employee's specific clinical dysfunction or status related to the work injury. However, the presence of objective relevant medical findings does not necessarily equate to an automatic limitation or restriction in function.			
<input type="checkbox"/> 21. No functional limitations identified or restrictions prescribed as of the following date:			
<input type="checkbox"/> 22. The injured workers' functional limitations and restrictions, identified in detail below, are of such severity that he/she cannot perform activities, even at a sedentary level (e.g. hospitalization, cognitive impairment, infection, contagion), as of the following date: <i>Use additional sheet if needed.</i>			
<input type="checkbox"/> 23. The injured worker may return to activities so long as he/she adheres to the functional limitations and restrictions identified below. Identify ONLY those functional activities that have specific limitations and restrictions for this patient. Identify joint and/or body part. <i>Use additional sheet if needed.</i>			
Functional Activity	Load	Frequency & Duration	ROM/ Position & Other Parameters
<input type="checkbox"/> Bend			
<input type="checkbox"/> Carry			
<input type="checkbox"/> Climb			
<input type="checkbox"/> Grasp			
<input type="checkbox"/> Kneel			
<input type="checkbox"/> Lift-floor > waist			
<input type="checkbox"/> Lift-waist > overhead			
<input type="checkbox"/> Pull			
<input type="checkbox"/> Push			
<input type="checkbox"/> Reach-overhead			
<input type="checkbox"/> Sit			
<input type="checkbox"/> Squat			
<input type="checkbox"/> Stand			
<input type="checkbox"/> Twist			
<input type="checkbox"/> Walk			
<input type="checkbox"/> Other			
<b>COMMENTS:</b>			
Other choices; Skin Contact/ Exposure; Sensory; Hand Dexterity; Cognitive; Crawl; Vision; Drive/Operate Heavy Equipment; Environmental Conditions: heat, cold, working at heights, vibration; Auditory; Specific Job Task(s); etc.			
<i>NOTE: Any functional limitations or restrictions assigned above apply to both on and off the job activities, and are in effect until the next scheduled appointment unless otherwise noted or modified prior to the appointment date.</i>			
<i>Specify those functional limitations and restrictions, in Item 23, which are permanent if MMI / PIR have been assigned in Item 24.</i>			
<b>SECTION V MAXIMUM MEDICAL IMPROVEMENT / PERMANENT IMPAIRMENT RATING</b>			
24. Patient has achieved maximum medical improvement?			
<input type="checkbox"/> a) YES, Date: <input type="checkbox"/> b) NO <input type="checkbox"/> c) Anticipated MMI date: <input type="checkbox"/> d) Anticipated MMI date cannot be determined at this time. Future Medical Care Anticipated: <input type="checkbox"/> e) Yes <input type="checkbox"/> f) No			
Comments:			
25. % Permanent Impairment Rating (body as a whole) Body part/system:			
26. Guide used for calculation of Permanent Impairment Rating (based on date of accident - see instructions):			
<input type="checkbox"/> a) 1996 FL Uniform PIR Schedule <input type="checkbox"/> b) Other, specify			
27. Is a residual clinical dysfunction or residual functional loss anticipated for the work-related injury?			
<input type="checkbox"/> a) YES <input type="checkbox"/> b) NO <input type="checkbox"/> c) Undetermined at this time.			
<b>SECTION VI FOLLOW-UP</b>			
28. Next Scheduled Appointment Date & Time:			
<b>SECTION VII ATTESTATION STATEMENT</b>			
"As the Physician, I hereby attest that all responses herein have been made, in accordance with the instructions as part of this form, to a reasonable degree of medical certainty based on objective relevant medical findings, are consistent with my medical documentation regarding this patient, and have been shared with the patient."			
Physician Group:		Date:	
Physician Signature:		Physician DOH License #:	
Physician Name: <small>(print name)</small>		Physician Specialty:	
If any direct billable services for this visit were rendered by a provider other than a physician, please complete sections below:			
"I hereby attest that all responses herein relating to services I rendered have been made, in accordance with the instructions as part of this form, to a reasonable degree of medical certainty based on objective relevant medical findings, are consistent with my medical documentation regarding this patient, and have been shared with the patient."			
Provider Signature:		Provider DOH License #:	
Provider Name: <small>(print name)</small>		Date:	

Show by marking the drawing of the back and front of the figures below where you are having most of your:

Aching or pain - XXXXXXXX

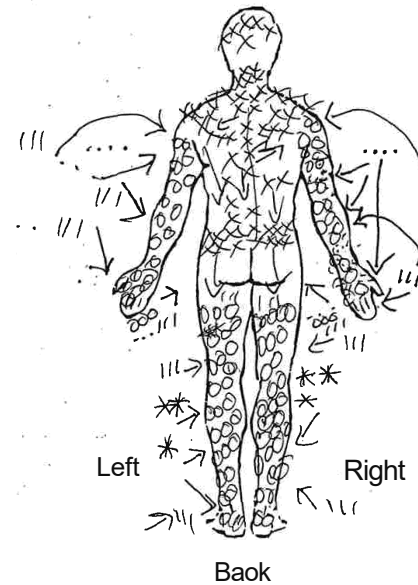
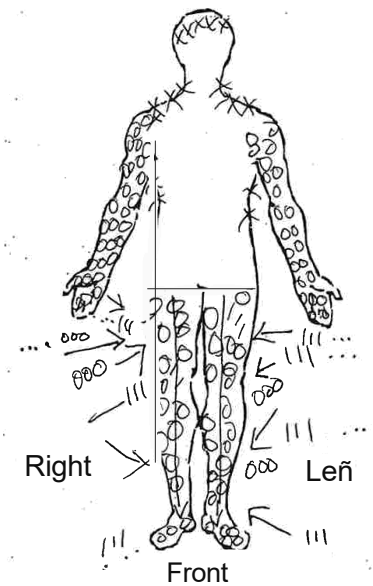
Pins and needles - .....

Burning - / / / / / / / /

Numbness and tingling - 0000000

Cramping - \* \* \* \* \*

Draw arrows showing where the pain goes or shoots to



Patient Name



Date:

9/21/06

ACHING OR PAIN	XXXXXXXXXX	NUNIBNESSFTINGLING	0000000000
PINS AND NEEDLES	.....	CRAMPING	*****
BURNING	/f////////v/v/vf/vu/vfuuuu		

 $\frac{1}{2} = \frac{1}{2}$

4/1/02

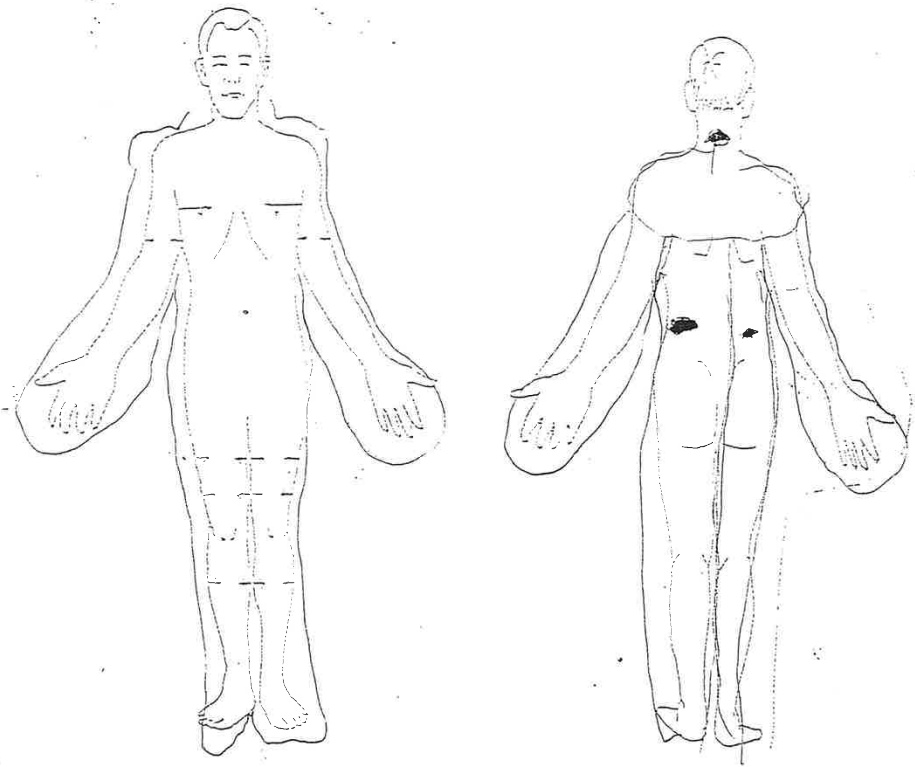
SHOW BY MARKING THE DRAWING ON THE BACK AND FRONT OF THE FIGURES  
BELOW WHERE YOU ARE HAVING MOST OF YOUR:

ACHING OR PAIN XXXXXXXXXXXX NUMBNESS OR TINGLING CCCCCCCCCC

PINS AND NEEDLES ..... CRAMPING \*\*\*\*\*

BURNING //////////////////////////////////

DRAW ARROWS WHERE PAIN GOES OR SHOOTS



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MICHAEL J. BROOM, M.D.  
MARC R. GERSER, M.D.  
Specializing in Surgical & Non-Surgical Spine Care  
15 West Kaley St., Suite 300  
Orlando, FL 32808

# Laws of the Pain Palace (cont.)

- Theory of Pain Relativity  $E=MC^2$   
Where  
E = **E**xaggeration of symptoms  
M = number of **M**edications they want increased  
C = **C**ompensation they may expect
- Murphy's First Law of Pain: Anything that is innervated will hurt eventually.
- Murphy's Second Law of Pain: Many things that aren't innervated seem to hurt, too.

# Laws of the Pain Palace (cont.)

- The cure can be worse than the disease

Corollary: The cure can be a new disease

Reverse Corollary: Development of the new disease will cure the old disease, provided the new disease justifies increased medication doses.



# Laws of the Pain Palace (cont.)

- Any time a patient's name is mentioned in a conversation between clinic staff, the patient will call with a problem within two hours.
- If a patient knows a medication has a 5% chance of causing a side effect, there's a 50% chance they will get that side effect.

Corollary: If they found out on the Internet, the side effect is a virtual certainty.

RESULTS: LUMBAR...  
 DIAGNOSED WITH BPV (BENIGN POST. VERTIGO) CAUSE EXTREME EYE STIGMA  
 DIZZINESS/HEADACHES

POTENTIALLY BLACKOUT AND LOUD RINGING OF EARS A TIM OF ACCIDENT  
 SEVERE DIZZINESS WHEN MOVING  
 LACERATION IN BACK OF HEAD  
 STR F AT ER 6:30-03  
 ER DOCTOR - REFER TO ORI  
 F NECK/MULDER/ARM

BACK OF NECK TO SHOULDER  
 NECK PAIN RADIATES TO SHOULDERS  
 NECK STIFFNESS/CRUNCHY

WHOLE BACK MUSCLE AREA  
 BRUISED AND SHOULDER PAIN  
 SLIGHT FRACTURES TO RIB COLE-DR.

LT SHOULDER PAIN

TA NEK ROW  
 FROM R W  
 TILY

RT SHOULDER JOINT/A  
 PAIN & CRUNCHY SHOULDER

RT SHOULDER  
 SHARP PAIN  
 EXTENDED ACROSS  
 FEELS LIKE PAINING MU  
 CAN LAY ON RT SIDE  
 WITH LT SHOULDER PAIN

RT ELBOW  
 AND PROT

RT ARM  
 FRAME

RT ARM  
 BRUISED  
 FOREARM  
 DETAIL

RT INNER  
 TRUCK BED,

LACERATION RT  
 NO STICHES

ER DID NOT CHECK LOW BACK  
 USED PAIN TO ASSIST WALKING  
 OR APPROX 1 MONTH  
 AFTER MRI RESULTS: HERNIATION  
 L3; BULGING L4-5 DISC

MUSCLES SHARP PAIN THRU RT BUTTOK  
 MUSCLE AND EXTENDS TO RT LEG  
 WHEN MISALIGNMENT OF SPINE  
 NO NERVE PINCHED  
 CANNOT WALK UPRIGHT WHEN THIS  
 CONDITION OCCURS  
 HAVE HAD CORTIZONE SHOTS AND  
 SCRIPT-ENDACET PILLS FOR PAIN  
 BELIEF FROM FAMILY DOCTOR, CO.  
 ALSO MRI DIAGNOSIS AT DR. WHESE  
 IN CO. MEDICAL

ON 6-29-02 BEFORE MIDNIGHT RECALL FROM LIFT 7' WITH APPROX 8 FEET, FOLLOWS  
 MYSELF ON TARMAC WITH TUNNEL VISION AND LOUD RINGING IN EARS PAIN ON  
 LIMBS BODY AND NECK AREA DID NOT MOVE UNTIL PARAMEDIC ARRIVED  
 NECK/HEAD BACK AREA STRAPPED TO STICKER BOARD STRAP  
 MASSIVE BLEEDING TO BACK OF HEAD AND PONDORR MULLER  
 RIGHT ARM ALSO ANNOTATED OTHER REINFORCE AND DUE  
 HOSP. ORLANDO. DIZZINESS WAS CONSTANT WITH MY  
 AT ER PATS CALLED HEAD AND MANY X-RAYS (NO HIT). DR. ORA'HEAD X-RAYS  
 RT FOREARM / RT SHOULDER AND CERVICAL SPINE AND DR. STIT'HEAD LIE LA TUM  
 APPROX 3" X 3". DR. GAVE ME SCRIPT FOR PAIN AND REFERRED ME TO AN ORTHO. DR. ONE  
 AT FIRST VISIT DR. ROTAS (ORTH) STITCHES IN HEAD REMOVED RE TUMOR X-DAYS-NO



SORE, PAIN CONSTANTLY. LT SHOULDER

# PATIENT PAIN DRAWING

Name: EXIKHE

Date: 3/29/01

EXIKHE

SENSITIVITY TO COLD

Aching

▲▲▲

NUMbing

===

Pins and needles

○○○

Burning

XXX

Stabbing

|||

Other

...



Pain in arm(s) compared with neck: 4/5  
Worse than  
0 Same as  
X Less than

1972 MYELOGRAPHY  
AT MASS. GEN. HOSP  
SHOWED LEFT CANAL  
+ HEARING TONE  
TOTALLY DIFFERENT  
FROM RIGHT. ALSO  
NEUROLOGICAL CAUSATION  
DIFFERENCES OF LEFT  
SIDE. DIAGNOSED ACUSTIC NEUROMA  
CT SCAN IN 1998  
AT SHANDS SHOWED  
EYE SOCKET  
SHAW, NASAL  
CAVITY TOTALLY  
DIFFERENT ON  
LEFT

Pain in leg(s) compared with back:  
0 Worse than  
Same as  
Less than

STABLING  
HOLDING  
IN WHEN WALKING  
REPAIRING



Pain in arm(s) compared with neck: 4/5  
Worse than  
0 Same as  
X Less than

1972 MYELOGRAPHY  
AT MASS. GEN. HOSP  
SHOWED LEFT CANAL  
+ HEARING TONE  
TOTALLY DIFFERENT  
FROM RIGHT. ALSO  
NEUROLOGICAL CAUSATION  
DIFFERENCES OF LEFT  
SIDE. DIAGNOSED ACUSTIC NEUROMA  
CT SCAN IN 1998  
AT SHANDS SHOWED  
EYE SOCKET  
SHAW, NASAL  
CAVITY TOTALLY  
DIFFERENT ON  
LEFT

Pain in leg(s) compared with back:  
0 Worse than  
Same as  
Less than

STABLING  
HOLDING  
IN WHEN WALKING  
REPAIRING

# References

- Florida Workers Compensation Statutes 2024 Chapter 440
- Florida Statute 2024 Chapter 627.736